

# **Office of Solid Waste and Emergency Response**

## **Freedom of Information Act (FOIA)**

### **Standard Operating Procedures**

#### **PURPOSE**

Guidance and Procedures for the Office of Solid Waste and Emergency Response staff in the processing of Freedom of Information Act (FOIA) requests using the FOIA online system.

#### **OBJECTIVE**

These procedures provide basic instructions for responding to FOIA requests submitted to the EPA. They address statutory, regulatory, policy, procedural and processing requirements to be followed by OSWER employees.

#### **PROCEDURES**

##### **Receipt of FOIA by Agency**

The public submits FOIA requests to the Agency/EPA via FOIA online. The Agency's FOIA Office receives, reviews, and acknowledge incoming requests and assigns to one of the Agency Organizations (Office or Region.)

##### **Processing of FOIA by OSWER IO Lead FOIA Coordinator**

OSWER's FOIA Coordinator receives incoming request from FOI office

- Analyzes incoming request and determines appropriate program office for response.
  - If the subject matter is unclear, a search is conducted through the agency's intranet and the worldwide web to assist in the determination.
    - If the request is still unclear, then an email is sent to all OSWER's office coordinators asking if they have responsive documents to the attached request.
      - ✓ If the offices have no responsive documents, the request would be reassigned to the most appropriate program or regional office based on the input provided from the program office coordinators.
      - ✓ If the request has been in OSWER past the allotted time, then the requester would be contacted via email or letter concerning the transfer and length of time to respond to their request.
- Based on the subject matter, the request is assigned to the appropriate program office. The program office has 20 days to search and review responsive records; and prepare final response to the requester.

OSWER's FOIA Coordinator receives incoming request transferred from other HQs program offices or regional offices.

- Analyzes incoming request and determines appropriate program office for response.
  - If the subject matter is unclear, a search is conducted through the agency's intranet and the worldwide web to assist in the determination.

- If the request is still unclear, then an email is sent to all OSWER's office coordinators asking if they have responsive documents to the attached request.
    - ✓ If the offices have no responsive documents, the request would be reassigned to another program or regional office based on the input provided from the subject matter experts (SME) in the program offices.
    - ✓ If the request has been in OSWER for some time, then the requester would be contacted via email or letter concerning the length of time to respond to their request.
- Based on the subject matter, the request is assigned to the appropriate program office. The program office has 20 days to search and review responsive records; and prepare final response to the requester.
  - When the program office determines the response cannot be completed within the 20 working days, they may extend the due date if "unusual circumstances," as defined by the agency FOIA directives.
- Assist in the resolutions of disputes.
- As lead office, coordinate with regional offices concerning duplicate FOIA request received identified by the FOIA Expert Assistance Team (FEAT). Instead of the requester receiving multiple responses, one response will be sent on behalf of the EPA.

OSWER's FOIA Coordinator tracks and monitors FOIA request assigned to the OSWER program offices.

- Reviews all FOIA request that have been sent through FOIA online for close out.
  - Ensure administrative cost is properly recorded for time spent on request.
  - Review final response to:
    - Make sure final response coincide with the final disposition notice;
    - The correct case number is identified properly;
    - Make sure "appeal language" has been included;
    - The appropriate signature block is identified;
    - If exemptions are applied, make sure they've been identified properly.
  - If there is a discrepancy, it is disapproved and returned for correction.
  - If the final review is accurate, it is approved and returned to SME for final close out.
- Prepares and distribute OSWER's Weekly Preview Report
  - Assist in reducing delays of response to requesters
  - Increase transparency and understanding of the status of requests

## **Processing of FOIA by OSWER Division Office**

### **Program Office FOIA Coordinator**

Coordinator accesses FOIA online daily for new FOIA assignments for his/her office.

- FOIA request is reviewed and analyzed for subject matter and content.
  - Based on the subject matter, the request is assigned to the appropriate office and/or SME to respond.
  - If the subject matter is unclear, requests the SME, manager or other knowledgeable person within the organization assist with the determination.
  - If it is determined the request should be assigned to another office, OSWER's Lead FOIA Coordinator, Wanda McLendon, is contacted immediately via email and the reason for the reassignment is placed in the comment tab in FOIA online.

- Retrieves estimate processing fee to determine if FOIA is billable when asked.
- Tracks FOIA responses and due dates.
  - Asks SME to contact requester via phone and email if the response will not be completed on time and inform the requester when to expect a final response.
  - Reviews OSWER's Weekly Preview Report and provides updates to OSWER Lead Coordinator concerning past due or backlogged FOIA requests.

#### Subject Matter Expert (SME)

- Determines if there are responsive documents.
- If not, the SME creates "no record response" letter for division director or equivalent signature and uploads signed letter into FOIA online.
  - Fills out the "No records" verification sheet and uploads into FOIA online.
  - Begins close out process and sends it to manager/supervisor and OSWER Lead FOIA Coordinator for review.
  - When approved, performs final close out of request in FOIA Online.
- If there are responsive documents:
  - Searches, collects and reviews records within the scope of the request (which includes the consultation and referral with other federal agencies).
    - Determines if any information is "exempt" from release.
    - Determines if other EPA program offices or regional offices may have responsive records.
      - ✓ If so, contact program coordinator to create task assignments. If the regional office receives a task assignment, the regional program coordinator will contact OSWER Lead Coordinator for assistance.
    - Determines if the FOIA is complex.
      - ✓ If so, request a HOLD to obtain clarification for the requester.
      - ✓ Contact program office coordinator, who will contact OSWER Lead Coordinator, to apply justification for the HOLD.
  - Tasks any office personnel that may have responsive documents, to respond.
  - Determines if responsive documents may include Microsoft Outlook Email Search
    - Works with Search Point of Contact (SPOC) to develop and submit an MS Outlook email search who will:
      - ✓ Download resulting .pst file to either local computer, my document folder or F: drive.
      - ✓ Process the .pst file.
      - ✓ Upload the resulting file as per instructions.
      - ✓ Questions or concerns regarding the results should be addressed via email to Walt Baucom.
  - Locates, redacts and saves responsive documents, as required.
    - Uploads documents to FOIA online, including required data fields
      - ✓ Sends responses that are more complex to OGC for review of content and documents
      - ✓ OGC identifies the appropriate exemptions and gives approval for release of documents
  - Creates time extension request letters if unable to process within the required 20 day timeframe.
  - Records time for administrative cost which includes:
    - Search
    - Review

- Copy
  - Mailing
  - Computer Search/Machine time
  - Pages Reproduced for file copy; and etc.
- Creates interim responses as necessary.
- Monitors responses to task assignments.
- Ensures all responsive documents and attachments have been uploaded to FOIA online.
  - Prepares draft response (hard copy or electronic) to upload into FOIA online for signature of Division Director, Office Director or Deputy Office Director.
- Adds reviewers to begin close out process.
- Sends completed FOIA request for review via FOIA online, to manager/supervisor or OSWER FOIA Coordinator as appropriate.
  - Reviewers receive email notification of response with responsive documents for approval or disapproval.
  - Review process is completed by the manager/supervisor and OSWER FOIA Coordinator. FOIA request is either approved or disapproved by manager/supervisor and OSWER Lead FOIA Coordinator.
    - ✓ If approved, notification is received to complete the final close out of request.
    - ✓ If disapproved, see instructions in comment field. Make corrections and begin close out process again.
  - Continue with final closeout in FOIA online.
    - ✓ Select responsive records to be released to the requester
    - ✓ Click “yes” to attach billable invoice over \$14
    - ✓ Click “no” if invoice is under \$14
    - ✓ Lastly, click “send” and enter password to complete closure of FOIA request
- Responsive records are successfully released to the requester via FOIA online.

#### Managers and Supervisors

- Review and approve all FOIA responses before release.

#### References:

- EPA Intranet FOIA homepage: <http://intranet.epa.gov/foia/>
- Freedom of Information Act Policy, CIO 2157.1
- Procedures for Responding to Freedom of Information Act Requests, CIO 2157-P-01.1
- FOIA online User Guide, <http://intranet.epa.gov/foia/docs/agency-user-guide.pdf>
- DOJ Guide to the Freedom of Information Act, 2009 Edition
- Headquarters FOI Office, (202) 566-1667